

(Ms. LANDRIEU) was added as a cosponsor of S. 1678, a bill to amend title XVIII of the Social Security Act to modify the provisions of the Balanced Budget Act of 1997.

S. 1701

At the request of Mr. SESSIONS, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1701, a bill to reform civil asset forfeiture, and for other purposes.

S. 1717

At the request of Mr. BOND, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1717, a bill to amend title XXI of the Social Security Act to provide for coverage of pregnancy-related assistance for targeted low-income pregnant women.

#### SENATE CONCURRENT RESOLUTION 60

At the request of Mr. FEINGOLD, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

#### SENATE RESOLUTION 196

At the request of Mr. WARNER, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. INOUE), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 196, a resolution commending the submarine force of the United States Navy on the 100th anniversary of the force.

#### SENATE RESOLUTION 206—RELATIVE TO THE DEATH OF THE HONORABLE JOHN H. CHAFEE, OF RHODE ISLAND

Mr. LOTT (for himself, Mr. DASCHLE, Mr. REED, Mr. THURMOND, Mr. BYRD, Mr. KENNEDY, Mr. INOUE, Mr. HOLLINGS, Mr. STEVENS, Mr. ROTH, Mr. HELMS, Mr. DOMENICI, Mr. BIDEN, Mr. LEAHY, Mr. SARBANES, Mr. MOYNIHAN, Mr. LUGAR, Mr. HATCH, Mr. BAUCUS, Mr. COCHRAN, Mr. WARNER, Mr. LEVIN, Mr. DODD, Mr. GRASSLEY, Mr. SPECTER, Mr. NICKLES, Mr. MURKOWSKI, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. HARKIN, Mr. GRAMM, Mr. MCCONNELL, Mr. ROCKEFELLER, Mr. BREAUX, Ms. MIKULSKI, Mr. SHELBY, Mr. MCCAIN, Mr. REID, Mr. GRAHAM, Mr. BOND, Mr. CONRAD, Mr. GORTON, Mr. JEFFORDS, Mr. BRYAN, Mr. MACK, Mr. KERREY, Mr. ROBB, Mr. BURNS, Mr. KOHL, Mr. LIEBERMAN, Mr. AKAKA, Mr. SMITH of New Hampshire, Mr. CRAIG, Mr. WELLSTONE, Mrs. FEINSTEIN, Mr. DORGAN, Mrs. BOXER, Mr. GREGG, Mr. CAMPBELL, Mr. COVERDELL, Mr. FEINGOLD, Mrs. MURRAY, Mr. BENNETT, Mrs. HUTCHISON, Mr. INHOFE, Mr. THOMPSON, Ms. SNOWE, Mr. DEWINE, Mr. KYL, Mr. THOMAS, Mr. SANTORUM, Mr. GRAMS, Mr. ASHCROFT, Mr. ABRAHAM, Mr.

FRIST, Mr. WYDEN, Mr. BROWNBACK, Mr. ROBERTS, Mr. DURBIN, Mr. TORRICELLI, Mr. JOHNSON, Mr. ALLARD, Mr. HUTCHINSON, Mr. CLELAND, Ms. LANDRIEU, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. HAGEL, Ms. COLLINS, Mr. ENZI, Mr. SCHUMER, Mr. BUNNING, Mr. CRAPO, Mrs. LINCOLN, Mr. BAYH, Mr. VOINOVICH, Mr. FITZGERALD, and Mr. EDWARDS) submitted the following resolution; which was considered and agreed to:

S. RES. 206

*Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable John H. Chafee, a Senator from the State of Rhode Island.

*Resolved*, That Senator Chafee's record of public service embodied the best traditions of the Senate: Statesmanship, Comity, Tolerance, and Decency.

*Resolved*, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to be family of the deceased.

*Resolved*, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the deceased Senator.

#### AMENDMENTS SUBMITTED

#### THE AFRICAN GROWTH AND OPPORTUNITY ACT

#### ASHCROFT (AND OTHERS) AMENDMENT NO. 2328

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. BROWNBACK, Mr. GRASSLEY, Mr. INHOFE, Mr. HARKIN, Mr. ROBB, Mr. CRAIG, Mr. DORGAN, Mr. LUGAR, Mr. HELMS, Mr. DURBIN, Mr. INOUE, Mr. CONRAD, Mr. WYDEN, Mr. JOHNSON, Mr. FITZGERALD, Mr. GRAMS, Mr. ALLARD, Mr. HUTCHINSON, Mr. BOND, Mr. ENZI, and Mr. CRAPO) submitted an amendment intended to be proposed by them to the bill (H.R. 434) to authorize a new trade and investment policy for sub-Saharan Africa; as follows:

At the appropriate place, add the following:

#### SEC. . CHIEF AGRICULTURAL NEGOTIATOR.

(a) ESTABLISHMENT OF A POSITION.—There is established the position of Chief Agricultural Negotiator in the Office of the United States Trade Representative. The Chief Agricultural Negotiator shall be appointed by the President, with the rank of Ambassador, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The primary function of the Chief Agricultural Negotiator shall be to conduct trade negotiations and to enforce trade agreements relating to U.S. agricultural products and services. The Chief Agricultural Negotiator shall be a vigorous advocate on behalf of U.S. agricultural interests. The Chief Agricultural Negotiator shall perform such other functions as the United States Trade Representative may direct.

(c) COMPENSATION.—The Chief Agricultural Negotiator shall be paid at the highest rate of basic pay payable to a member of the Senior Executive Service.

#### THE MILLENNIUM DIGITAL COMMERCE ACT

#### ABRAHAM AND OTHERS AMENDMENT NO. 2329

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. WYDEN, and Mr. LOTT) submitted an amendment intended to be proposed by them to the bill (S. 761) to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Millennium Digital Commerce Act".

#### SEC. 2. FINDINGS.

The Congress makes the following findings: (1) the growth of electronic commerce and electronic government transactions represent a powerful force for economic growth, consumer choice, improved civic participation and wealth creation.

(2) The promotion of growth in private sector electronic commerce through Federal legislation is in the national interest because that market is globally important to the United States.

(3) A consistent legal foundation, across multiple jurisdictions, for electronic commerce will promote the growth of such transactions, and that such a foundation should be based upon a simple, technology neutral, non-regulatory, and market-based approach.

(4) The Nation and the world stand at the beginning of a large scale transition to an information society which will require innovative legal and policy approaches, and therefore, States can serve the national interest by continuing their proven role as laboratories of innovation for quickly evolving areas of public policy, provided that States also adopt a consistent, reasonable national baseline to eliminate obsolete barriers to electronic commerce such as undue paper and pen requirements, and further, that any such innovation should not unduly burden inter-jurisdictional commerce.

(5) To the extent State laws or regulations do not provide a consistent, reasonable national baseline or in fact create an undue burden to interstate commerce in the important burgeoning area of electronic commerce, the national interest is best served by Federal preemption to the extent necessary to provide such consistent, reasonable national baseline eliminate said burden, but that absent such lack of consistent, reasonable national baseline or such undue burdens, the best legal system for electronic commerce will result from continuing experimentation by individual jurisdictions.

(6) With due regard to the fundamental need for a consistent national baseline, each jurisdiction that enacts such laws should have the right to determine the need for any exceptions to protect consumers and maintain consistency with existing related bodies of law within a particular jurisdiction.

(7) Industry has developed several electronic signature technologies for use in electronic transactions, and the public policies of the United States should serve to promote a dynamic marketplace within which these technologies can compete. Consistent with this Act, States should permit the use and development of any authentication technologies that are appropriate as practicable as between private parties and in use with State agencies.

**SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to permit and encourage the continued expansion of electronic commerce through the operation of free market forces rather than proscriptive governmental mandates and regulations;

(2) to promote public confidence in the validity, integrity and reliability of electronic commerce and online government under Federal law;

(3) to facilitate and promote electronic commerce by clarifying the legal status of electronic records and electronic signatures in the context of writing and signing requirements imposed by law;

(4) to facilitate the ability of private parties engaged in interstate transactions to agree among themselves on the terms and conditions on which they use and accept electronic signatures and electronic records; and

(5) to promote the development of a consistent national legal infrastructure necessary to support of electronic commerce at the Federal and State levels within existing areas of jurisdiction.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) **AGREEMENT.**—The term ‘agreement’ means the bargain of the parties in fact as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) **ELECTRONIC.**—The term “electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) **ELECTRONIC AGENT.**—The term “electronic agent” means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or performances in whole or in part without review by an individual at the time of the action or response.

(4) **ELECTRONIC RECORD.**—The term “electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.

(5) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(6) **GOVERNMENTAL AGENCY.**—The term “governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the Federal Government or of a State or of any country, municipality, or other political subdivision of a State.

(7) **RECORD.**—The term “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) **TRANSACTION.**—The term “transaction” means an action or set of actions relating to the conduct of commerce, including the business of insurance, between 2 or more persons, neither of which is the United States Government, a State, or an agency, department, board, commission, authority, institution, or instrumentality of the United States Government or of a State.

(9) **UNIFORM ELECTRONIC TRANSACTIONS ACT.**—The term “Uniform Electronic Transactions Act” means the Uniform Electronic Transactions Act as provided to State legislatures by the National Conference of Commissioners on Uniform State Law.

**SEC. 5. INTERSTATE CONTRACT CERTAINTY.**

(a) **APPLICATION OF SECTION.**—This section applies only to transactions between parties

each of which has agreed to conduct such transaction by electronic means. By agreeing to conduct a transaction by electronic means a party does not necessarily agree to conduct other transactions by electronic means.

(b) **IN GENERAL.**—In any commercial transaction affecting interstate commerce:

(1) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(2) A contract or agreement may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(3) If a law requires a record to be in writing, an electronic record satisfies the law.

(4) If a law requires a signature, an electronic signature satisfies the law.

(c) **ADMISSIBILITY OF EVIDENCE.**—In a legal proceeding, evidence of an electronic record of signature may not be excluded solely because it is in electronic form.

(d) **TERMS AND CONDITION OF AGREEMENTS.**—The parties to a transaction may agree on the terms and conditions on which they will use and accept electronic signatures and electronic records, including the methods therefore, in commercial transactions affecting interstate commerce. Nothing in this subsection requires that any party enter into such a transaction.

(e) **RETENTION.**—

(1) If a law requires that certain records be retained, that requirement is met by retaining an electronic record of the information in the record which—

(A) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

(B) remains accessible for later reference.

(2) A requirement to retain records in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the record to be sent, communicated, or received.

(3) A person satisfies the requirements of paragraph (1) by using the services of any other person if the requirements of paragraph (1) are met.

(4) If a law requires a record to be provided or retained in its original form, or provides consequences if the record is not provided or presented or retained in its original form, that law is satisfied by an electronic record provided or retained in accordance with paragraph (1).

(5) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with paragraph (1).

(6) A record retained as an electronic record in accordance with paragraph (1) satisfies a law requiring a person to retain records for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this subsection specifically prohibits the use of an electronic record for a specified purpose.

(7) This subsection does not preclude a governmental agency of the United States or any State from specifying additional requirements for the retention of records, written or electronic, subject to the agency’s jurisdiction.

(f) **TRANSFERABLE RECORDS.**—

(1) In this section, “transferable record” means an electronic record that—

(A) would be a note under Article 3 of the Uniform Commercial Code or a document under Article 7 of the Uniform Commercial Code if the electronic record were in writing;

(B) the issuer of the electronic record expressly has agreed is a transferable record; and

(C) relates to a transaction involving real or personal property.

(2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(3) A system satisfies paragraph (2), and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that—

(A) a single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(B) the authoritative copy identifies the person asserting control as—

(i) the person to which the transferable record was issued; or

(ii) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(iii) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(iv) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(v) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(vi) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(4) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 1-201(20) of the Uniform Commercial Code, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under section 3-302(a), 7-501, or 9-308 of the Uniform Commercial Code are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights under this subsection.

(5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

(6) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

(g) **ELECTRONIC AGENTS.**—A contract relating to a commercial transaction affecting interstate commerce may not be denied legal effect solely because its formation involved—

(1) the interaction of electronic agents of the parties; or

(2) the interaction of an electronic agent of a party and an individual who acts on that individual’s own behalf or for another person.

(h) **SPECIFIC EXCLUSIONS.**—The provisions of this section shall not apply to a statute, regulation, or other rule of law governing any of the following:

(1) The Uniform Commercial Code, as in effect in a state, other than sections 1-107 and 1-206, Article 2, and Article 2A.

(2) The creation or execution of wills, codicils, or testamentary trusts.

(3) Premarital agreements, marriage, adoption, divorce or other matters of family law.

(4) Court orders or notices, or documents used in court proceedings.

(5) Documents of title which are filed of record with a governmental unit until such time that a state or subdivision thereof chooses to accept filings electronically.

(6) Residential landlord-tenant relationships.

(7) The Uniform Health-Care Decisions Act.

(i) INSURANCE.—It is the specific intent of the Congress that the benefits of this title apply to the business of insurance. This section applies to any Federal and State law and regulation governing the business of insurance that requires manual signatures or communications to be printed or in writing, document delivery, and retention.

(j) APPLICATION IN UETA STATES.—This section does not preempt the Uniform Electronic Transactions Act as in effect in a State, if that Act, as in effect in that State, is not inconsistent, in any significant manner, with the provisions of this Act.

#### **SECTION 6. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS.**

To the extent practicable, the Federal Government shall observe the following principles in an international context to enable commercial electronic transaction:

(1) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law.

(2) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(3) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(4) Take a non-discriminatory approach to electronic signatures and authentication methods from other jurisdictions.

#### **SECTION 7. STUDY OF LEGAL AND REGULATORY BARRIERS TO ELECTRONIC COMMERCE.**

(a) BARRIERS.—Each Federal agency shall, not later than 6 months after the date of enactment of this Act, provide a report to the Director of the Office of Management and Budget and the Secretary of Commerce identifying any provision of law administered by such agency, or any regulations issued by such agency and in effect on the date of enactment of this Act, that may impose a barrier to electronic transactions, or otherwise to the conduct of commerce online or by electronic means. Such barriers include, but are not limited to, barriers imposed by a law or regulation directly or indirectly requiring that signatures, or records of transactions, be accomplished or retained in other than electronic form. In its report, each agency that shall identify the barriers among those identified whose removal would require legislative action, and shall indicate agency plans to undertake regulatory action to remove such barriers among those identified as are caused by regulations issued by the agency.

(b) REPORT TO CONGRESS.—The Secretary of Commerce, in consultation with the Director of the Office of Management and Budget, shall, within 18 months after the date of enactment of this Act, and after the consultation required by subsection (c) of this section, report to the Congress concerning—

(1) legislation needed to remove barriers to electronic transactions or otherwise to the

conduct of commerce online or by electronic means; and

(2) actions being taken by the Executive Branch and individual Federal agencies to remove such barriers as are caused by agency regulations or policies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary of Commerce shall consult with the General Services Administration, the National Archives and Records Administration, and the Attorney General concerning matters involving the authenticity of records, their storage and retention, and their usability for law enforcement purposes.

(d) INCLUDE FINDINGS IF NO RECOMMENDATIONS.—If the report required by this section omits recommendations for actions needed to fully remove identified barriers to electronic transactions or to online or electronic commerce, it shall include a finding or findings, including substantial reasons therefor, that such removal is impracticable or would be inconsistent with the implementation or enforcement of applicable laws.

### **NOTICE OF HEARING**

#### **COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. MURKOWSKI. Mr. President, I would like to announce that a full committee oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The oversight hearing will take place Tuesday, October 26, 1999, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the interpretation and implementation plans of Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition to Include Waters Subject to Subsistence Priority; Final Rule. Only the administration will present testimony.

Those who wish to submit written testimony should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Presentation of oral testimony is by committee invitation only. For information, please contact Jo Meuse or Brian Malnak at (202) 224-6730.

### **AUTHORITY FOR COMMITTEE TO MEET**

#### **COMMITTEE ON SMALL BUSINESS**

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing entitled "Internet Cramming: The Latest High-Tech Fraud on Small Businesses." The hearing will be held on Monday, October 25, 1999, beginning at 1 p.m. in room 652 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

### **ADDITIONAL STATEMENTS**

#### **TRIBUTE TO THOMAS BUREAU McDONALD**

• Mr. BINGAMAN. Mr. President, I rise today to pay tribute to the life of

Thomas Bureau McDonald who died as a result of a tragic car accident on October 9, 1999 in Albuquerque, New Mexico at the age of 35. His parents, family, and friends have lost a very special person. New Mexico has lost a young and dedicated public servant whose passion was working with college students, strengthening and expanding higher education, and stressing the importance of attending college.

Tom was a rising star among those interested in public service in New Mexico. He will be missed for his cheerful personality, his keen sense of humor, his political savvy, and his devotion to empowering students at the university and state level when it came to their education. Tom was never concerned with how much he could accomplish or who he could influence but, rather how he could live his life so when he was no longer serving in his appointed or elected capacities his ideas, dreams, and goals would be a reality. That reality was for children and their families living throughout New Mexico to have the opportunities in place to attend college to better themselves and to better their community. In life there are individuals who are concerned about being remembered for what they have done or still can do; Tom's only concern was being remembered for who he was—an outspoken leader on higher education and its students, a good son to his parents, a loving grandson to his grandmothers, and a trustworthy and loyal individual to his friends.

Tom attended the University of New Mexico and graduated from Western New Mexico University in Silver City, New Mexico where I grew up as a child. During his years at Western, Tom was elected by his peers not just once but twice to serve as their student body president (1990–1992). It was during this time that he eloquently presented a plan to the Board of Regents to build a new \$3.5 million Student Union Building utilizing only student fees. Tom was fortunate to go back a few years ago to the dedication of this new building. While at the dedication ceremony he realized that what started as a vision, a risk, a challenge, turned into structure of unity where students, administrators, and community members could learn, work and just be together.

Mr. President, from 1990 to 1992 Tom was appointed to two one year terms as the student member on the Governor's Commission on Higher Education by former Governor Bruce King. During his tenure, Tom transformed the way members of the Commission viewed student participation and input on higher education. Through his optimism, determination, and presence he created an identity for students around the state who were concerned about the quality of their education. That identity which Tom helped form not only exists before the Commission today, but before the State Legislature and Office of the Governor.

From 1992 to 1993 Tom was elected by student representatives from New